

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Rodricka J. Gambrell,)
Petitioner,) Cr No.: 6:06-cr-01094-GRA-02
v.)
United States of America,)
Respondent.)

)

ORDER
(Written Opinion)

This matter comes before the Court pursuant to Petitioner's Motion under Judicial Notice to Amend/Correct. For the reasons stated herein, Petitioner's Motion is DISMISSED.

Petitioner brings this motion *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

Because Petitioner is seeking to amend or correct his sentence by alleging that he "is not a[n] Arm[ed] Career Criminal," the Court finds that the matter should be construed as a petition for habeas corpus relief under 28 U.S.C. § 2255. It is well-established that, "[a]s a threshold matter, . . . defendants convicted in

federal court are obliged to seek habeas relief from their convictions and sentences through § 2255." *Rice v. Rivera*, 617 F.3d 802, 807 (4th Cir. 2010). Under 28 U.S.C. § 2255(h), "[a] second or successive [§ 2255] motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals" Furthermore, 28 U.S.C. § 2244(b)(3)(A) states that, "[b]efore a second or successive application . . . is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."

Here, Petitioner previously filed a § 2255 motion, which was denied by this Court. *See* ECF No. 71 & 76. The Fourth Circuit Court of Appeals upheld this Court's denial. *See* ECF No. 90. Petitioner does not allege that he has obtained an order of certification from the Fourth Circuit authorizing this Court to consider his second § 2255 motion. Therefore, the instant petition should be dismissed because this Court lacks jurisdiction to hear a second/successive § 2255 motion filed by Petitioner.

IT IS THEREFORE ORDERED that Petitioner's Motion is DISMISSED.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

January 10, 2012
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Defendant is hereby notified that he has the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.